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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY  DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BARTELL HOTELS, A California Limited
Partnership, dba HALF MOON ANCHORAGE,

Plaintiff,

v.

M/Y CLAIRE IRENE, a 1968 Owens Motor
Yacht of Approximately 40-Foot In Length And
11-Foot In Beam, Bearing California D.M.V.
Registration No. CF 8646 ED, AND ALL OF
HER ENGINES, TACKLE, ACCESSORIES,
EQUIPMENT, FURNISHINGS AND
APPURTENANCES, *in rem*,

Defendant.

Civil No. 07 CV 2097 L (BLM)

IN ADMIRALTY

~~PROPOSED~~ ORDER FOR
INTERLOCUTORY VESSEL SALE

F.R.C.P. Supplemental Admiralty
Rule E(9)

SUBMITTED ON PAPERS
(Oral Arguments Not Requested)

Date: July 14, 2008

Time: 10:30 a.m.

Judge: Hon. M. James Lorenz

~~PROPOSED~~ ORDER DIRECTING VESSEL

SALE AND AUTHORIZING CREDIT BID

CONSIDERING the Motion of Plaintiff BARTELL HOTELS, a California Limited Partnership, dba HALF MOON ANCHORAGE for an Order directing the public auction of the DEFENDANT VESSEL in this action, that certain motor yacht of approximately 40 feet and 11 feet in beam, known as M/Y CLAIRE IRENE, California D.M.V. Registration No. CF 8646 ED, and all of her engines, tackle, accessories, equipment, furnishing and appurtenances, and having considered all supporting any opposing papers, and good cause therefor appearing,

[PROPOSED] ORDER FOR INTERLOCUTORY VESSEL SALE

1 **IT IS HEREBY ORDERED** that, consistent with Supplemental Admiralty Rule
 2 E(9)(B) and Local Admiralty Rule E.1(e)(2) the United States Marshal be and hereby is
 3 directed and empowered to sell said DEFENDANT VESSEL and her engines, tackle,
 4 accessories, equipment, furnishings and appurtenances, as is, where is, at public sale at the
 5 first available time and date, after having first caused notice of said sale to be published daily
 6 in a newspaper of general circulation within the City of San Diego, California for at least six
 7 days immediately before the date of sale; and

8 **IT IS FURTHER ORDERED** that such public notice specify the date, time and
 9 location for the sale of the DEFENDANT VESSEL; and

10 **IT IS FURTHER ORDERED** that, consistent with Local Admiralty Rule E.1(e)(2),
 11 such public notice specify that the last and highest bidder at the sale will be required to
 12 deposit with the U.S. Marshal cash, certified check or a cashier's check in the amount of the
 13 full purchase price not to exceed \$500, and otherwise \$500 or ten percent (10%) of the bid,
 14 whichever is greater, and that the balance, if any, of the purchase price shall be paid in cash,
 15 certified check or cashier's check before confirmation of the sale or within three days of
 16 dismissal of any opposition which may have been filed, exclusive of Saturdays, Sundays and
 17 legal holidays; and

18 **IT IS FURTHER ORDERED** that any proceeds of said sale be deposited by the
 19 United States Marshal in the Registry of this Court, pending further Order of this Court; and

20 **IT IS FURTHER ORDERED** that Plaintiff, having a secured maritime lien interest
 21 in the Defendant Vessel pursuant to the Commercial Instruments and Federal Maritime Lien
 22 Act (46 U.S.C. section 31301, *et seq.*) and being the only claimant in this action asserting a
 23 maritime claim against her, is authorized ~~pursuant to its~~ ^{MB} pursuant to Local Admiralty Rule
 24 C.1(e)(2) to credit bid at the auction of the DEFENDANT VESSEL, without payment of
 25 cash, a sum equal to its secured interest in the Defendant Vessel, consisting of the lien
 26 amount specified in PLAINTIFF's ~~First Amended Verified Complaint (\$5,769.60)~~ ^{MB} *motions and supporting affidavits (\$4,749.60)*, plus its
 27 actual costs of suit through the date of the sale, including U.S. Marshal and other *custodia*
 28 *legis* expenses. However, as Plaintiff's maritime necessities lien interest in the

1 DEFENDANT VESSEL does not, as a matter of law, include attorneys' fees, such fees are
2 not to be included in any credit bid Plaintiff makes.

3 Dated: ~~July 11, 2008~~

Hon. M. James Lorenz

4 *August 12, 2008*
5 *M/J*

M James Lorenz
6 UNITED STATES DISTRICT COURT JUDGE

7 Dated: May 16, 2008

Respectfully submitted:

8 WEISS & JONES, L.L.P.

9
10 By: s/Philip E. Weiss

11 Attorney for Plaintiff
12 Bartell Hotels, a California Limited
13 Partnership, dba Half Moon Anchorage
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